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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/737,042	12/14/2000	Denise M. Genty	AUS9-2000-0597-US1	7840

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EXAMINER

SIMITOSKI, MICHAEL J

ART UNIT	PAPER NUMBER
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2134

DATE MAILED: 04/07/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

## Office Action Summary

Application No.

09/737,042

Applicant(s)

GENTY ET AL.

Examiner

Michael J Simitoski

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 22 November 2004.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-4,6 and 12-19 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-4,6 and 12-19 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_

### **DETAILED ACTION**

1. The response of 11/22/2004 was received and considered.
2. Claims 1-4, 6 & 12-19 are pending.

### ***Response to Arguments***

3. In light of Applicant's response (amendments to the specification), the objections to the specification and objections to claims 12-13 & 15, set forth in the previous Office Action, are withdrawn.
4. In light of Applicant's canceling claims 5 & 9, the rejection of those claims under 35 U.S.C. §112 ¶2, set forth in the previous Office Action, is withdrawn.
5. Applicant's arguments with respect to claims 1-4, 6 & 12-19 have been considered but are moot in view of the new ground(s) of rejection.

### ***Claim Objections***

6. Claim 6 is objected to under 37 CFR 1.75(c), as being of improper dependent form for failing to further limit the subject matter of a previous claim. Applicant is required to cancel the claim(s), or amend the claim(s) to place the claim(s) in proper dependent form, or rewrite the claim(s) in independent form. The limitations in claim 6 are present in claim 1, from which claim 6 depends.

### ***Claim Rejections - 35 USC § 103***

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7. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

8. Claims 1-3 & 6 are rejected under 35 U.S.C. 103(a) as being unpatentable over U.S.

Patent 6,687,700 to Cornelius et al. (**Cornelius**) in view of U.S. Patent 5,497,371 to Ellis et al.

(**Ellis**), in further view of "Free On-Line Dictionary of Computing" by **LinuxGuruz**. Cornelius discloses transferring network packets over a computer network (col. 5, lines 15-22) based on a policy wherein network packets having a high priority are transferred before network packets having a low priority (col. 13, lines 50-53), and performing cryptographic processing of the network packets using the policy (col. 13, lines 43-49). Cornelius further discloses a quality of service policy module/request handler, quality of service module/request handler and an Internet protocol security module/transmitter and receiver (Fig. 1). Cornelius discloses transmitting the highest priority data message/packets (col. 13, line 50-52) when the next message is ready (col. 3, lines 52-65), but lacks continually checking whether a higher-priority network packet than a network packet being processed is available and suspending processing of the network packet being processed and processing instead the higher-priority network packet. However, Ellis teaches that to reduce delay in applications (video, etc) that are sensitive to delay (col. 1, lines 17-33), packets of multiple priorities can be sent over a single link, but at any time, a higher priority packet will interrupt/suspend the transmission of a lower priority packet (col. 3, lines 34-67). The newly arrived packets (from the source card into the buffers) are analyzed to determine priority and higher priority packets will suspend processing/transmission of a lower priority

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packet (col. 4, lines 35-59 & col. 5, lines 13-18). Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention was made to determine whether newly-arrived packets have a higher priority than a current network packet being processed/transmitted and suspend/interrupt processing of the current network packet and processing of the newly arrived network packets in response to one or more newly arrived network packets having a higher priority than the current network packet. One of ordinary skill in the art would have been motivated to perform such a modification to reduce delay in applications that are sensitive to delay, as taught by Ellis (col. 1, lines 17-33 & col. 3, lines 34-67). As modified, Cornelius lacks transferring network packets specifically over a Virtual Private Network (VPN). However, LinuxGuruz teaches that a VPN uses encryption to provide a secure connection through an otherwise insecure network (p. 1). Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention was made to transfer packets over a VPN. One of ordinary skill in the art would have been motivated to perform such a modification to provide a secure connection through an otherwise insecure network, as taught by LinuxGuruz (p. 1).

9. Claim 4 is rejected under 35 U.S.C. 103(a) as being unpatentable over **Cornelius, Ellis & LinuxGuruz**, as applied to claim 1 above, in further view of “Quality Of Service: Priority Traffic” by **Higgins**. Cornelius lacks specifically a quality of service model. However, Higgins teaches that quality of service/QoS represents policies defined to give priority to selected data through a network so that important applications get preferential treatment (page 2, ¶1-2). Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention was made to use a quality of service policy model in the environment of Cornelius.

One of ordinary skill in the art would have been motivated to perform such a modification to enable certain applications to receive preferential treatment, as taught by Higgins (page 2, ¶1-2).

10. Claims 12-19 are rejected under 35 U.S.C. 103(a) as being unpatentable over **Cornelius** in view of **Higgins**, in view of “Antioffline – Putting the Hero in Heroin” by **BSD**, in view of **Ellis**, in further view of **LinuxGuruz**.

Regarding claims 12-16, Cornelius discloses transferring network packets over a computer network (col. 5, lines 15-22) based on a policy wherein network packets having a high priority are transferred before network packets having a low priority (col. 13, lines 50-53), and performing cryptographic processing of the network packets using the policy (col. 13, lines 43-49). Cornelius further discloses a quality of service policy module/request handler, quality of service module/request handler and a Internet protocol security module/transmitter and receiver (Fig. 1). Cornelius lacks specifically a quality of service model. However, Higgins teaches that quality of service/QoS represents policies defined to give priority to selected data through a network so that important applications get preferential treatment (page 2, ¶1-2). Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention was made to use a quality of service policy model. One of ordinary skill in the art would have been motivated to perform such a modification to enable certain applications to receive preferential treatment, as taught by Higgins (page 2, ¶1-2). Cornelius, as modified above, lacks using Internet protocol security programs for encrypting and decrypting the network packets. However, BSD teaches that using the IPSec protocols offers the benefits of confidentiality, integrity, authenticity and replay protection to IP packets (§13.2). Therefore, it would have been

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obvious to one having ordinary skill in the art at the time the invention was made to use Internet protocol security programs for encrypting and decrypting the network packets. One of ordinary skill in the art would have been motivated to perform such a modification to gain the benefits of confidentiality, integrity, authenticity and replay protection to IP packets, as taught by BSD (§13.2). However, Ellis teaches that to reduce delay in applications (video, etc) that are sensitive to delay (col. 1, lines 17-33), packets of multiple priorities can be sent over a single link, but at any time, a higher priority packet will interrupt/suspend the transmission of a lower priority packet (col. 3, lines 34-67). The newly arrived packets (from the source card into the buffers) are analyzed to determine priority and higher priority packets will suspend processing/transmission of a lower priority packet (col. 4, lines 35-59 & col. 5, lines 13-18). Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention was made to determine whether newly-arrived packets have a higher priority than a current network packet being processed/transmitted and suspend/interrupt processing of the current network packet and processing of the newly arrived network packets in response to one or more newly arrived network packets having a higher priority than the current network packet. One of ordinary skill in the art would have been motivated to perform such a modification to reduce delay in applications that are sensitive to delay, as taught by Ellis (col. 1, lines 17-33 & col. 3, lines 34-67). As modified, Cornelius lacks transferring network packets specifically over a Virtual Private Network (VPN). However, LinuxGuruz teaches that a VPN uses encryption to provide a secure connection through an otherwise insecure network (p. 1). Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention was made to transfer packets over a VPN. One of ordinary skill in the art would have been motivated to

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perform such a modification to provide a secure connection through an otherwise insecure network, as taught by LinuxGuruz (p. 1).

Regarding claim 18, Cornelius discloses decrypting the network packets in order of priority with the highest-priority network packet being processed first (col. 13, lines 54-65).

Regarding claims 17 & 19, Cornelius, as modified above, discloses encrypting (transmission from source in Ellis) the higher-priority packets by suspending execution of the lower priority packets and processing the higher-priority packets instead (Ellis, col. 3, lines 34-67, col. 4, lines 35-59 & col. 5, lines 13-18).

### ***Conclusion***

11. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the date of this final action.



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12. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Michael J. Simitoski whose telephone number is (571) 272-3841. The examiner can normally be reached on Monday - Thursday, 6:45 a.m. - 4:15 p.m.. The examiner can also be reached on alternate Fridays from 6:45 a.m. - 3:15 p.m.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Gregory Morse can be reached at (571) 272-3838.

**Any response to this action should be mailed to:**

Commissioner of Patents and Trademarks  
Washington, DC 20231

**Or faxed to:**

(703)746-7239 (for formal communications intended for entry)

**Or:**

(571)273-3841 (Examiner's fax, for informal or draft communications, please label "PROPOSED" or "DRAFT")

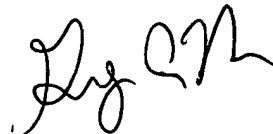
Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (571) 272-2100.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



MJS

March 17, 2005



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